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STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

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In the Matter of License 2650 (Application 9827)  
Downieville Public Utility District

**ORDER CORRECTING THE PLACE OF USE, ADDING  
AN ANNUAL AMOUNT AND STANDARD LICENSE  
TERMS**

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SOURCE: Pauley Creek  
COUNTY: Sierra

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**WHEREAS:**

1. License 2650 was issued to County of Sierra on April 21, 1944, pursuant to Application 9827 and was recorded with the County Recorder of Sierra County on April 28, 1944.
2. License 2650 was subsequently issued to Downieville Public Utility District on November 6, 1952.
3. The Division of Water Rights (Division) conducted an inspection of the project covered by License 2650 on July 25, 2000. This inspection found that a correction in the place of use and points of diversion authorized by this license is necessary and that a term limiting the total quantity of water diverted under this license should be added.
4. The State Water Resources Control Board (SWRCB) will also add its standard continuing authority and water quality objective terms and a term to prevent any act which results in the taking of a threatened or endangered species that have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

License 2650 is amended to include the following changes, corrections and new or revised terms and conditions:

1. The following limitation on the total amount of water diverted under this license is added as follows:

The total quantity of water diverted under this license shall not exceed 114 acre-feet per year.

2. The description of the points of diversion are corrected as follows:

(1) By California Coordinate System of 1927, Zone 2, North 695,300 feet and East 2,332,400 feet, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 26, T20N, R10E, MDB&M.

(2) By California Coordinate System of 1927, Zone 2, North 695,449 feet and East 2,332,815 feet, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 26, T20N, R10E, MDB&M.

3. The description of the place of use is corrected as follows:

Downieville Public Utility District Service Area within E $\frac{1}{2}$  of SW $\frac{1}{4}$ , NW $\frac{1}{4}$  of SE $\frac{1}{4}$  and SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 26, and NW $\frac{1}{4}$  of Section 35, all within T20N, R10E, MDB&M, as shown on map on file with the SWRCB.

4. The continuing authority condition is updated to read as follows:

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to:

(1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to ensure compliance with the quantity limitations of this license and to determine accurately water use as against

reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

5. The water quality objectives condition is updated to read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

6. An endangered Species term is added to read as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.



Harry M. Schueller, Chief  
Division of Water Rights

Dated: **MAY 15 2001**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 9827

PERMIT 5663

LICENSE 2650

ORDER ALLOWING CHANGE IN POINT OF DIVERSION

WHEREAS, License 2650 was issued to County of Sierra and was filed with the County Recorder of Sierra County on April 28, 1944, and

WHEREAS, said license was subsequently assigned to Downieville Public Utility District, and

WHEREAS, the State Water Resources Control Board has found that the change in point of diversion under said license for which petition was submitted on June 12, 1970, will not operate to the injury of any other legal user of water, and

WHEREAS, the Board has approved and allowed said change and has directed that an order be issued to describe said points of diversion in accordance with said petition;

NOW, THEREFORE, IT IS ORDERED that permission be and the same is hereby granted to change the point of diversion under said License 2650 to points of diversion described as follows, to wit:

- (1) NORTH 10°12' EAST 2,258.8 FEET FROM S $\frac{1}{4}$  CORNER OF SECTION 26, T20N, R10E, MDB&M; BEING WITHIN NW $\frac{1}{4}$  OF SE $\frac{1}{4}$  OF SAID SECTION 26.
- (2) NORTH 2,000 FEET AND EAST 1,200 FEET FROM S $\frac{1}{4}$  CORNER OF SECTION 26, T20N, R10E, MDB&M; BEING WITHIN NW $\frac{1}{4}$  OF SE $\frac{1}{4}$  OF SAID SECTION 26.

Dated: AUG 6 1970

*K. L. Woodward*  
K. L. Woodward, Chief  
Division of Water Rights

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STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

ORDER

APPLICATION 9827

PERMIT 5663

LICENSE 2650

ORDER ALLOWING CORRECTION OF DESCRIPTION OF SOURCE

Licensee having established to the satisfaction of the State Engineer that the correction of description of source under Application 9827, Permit 5663, License 2650, for which petition was submitted on October 21, 1955, will not operate to the injury of any other legal user of water, the State Engineer so finds, and

IT IS ORDERED that permission be and the same is hereby granted to correct the description of source under said Application 9827, Permit 5663, License 2650, to read as follows, to wit:

PAULEY CREEK TRIBUTARY TO DOWNIE RIVER  
THENCE NORTH YUBA RIVER

WITNESS my hand and the seal of the Department of Public Works of the State of California this 29 day of December 1955

HARVEY O. BANKS  
ACTING STATE ENGINEER

By

  
L. C. Jopson  
Principal Hydraulic Engineer



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STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

Notice of Assignment (Over)

LICENSE **2650**

PERMIT **5663**

APPLICATION **9827**

THIS IS TO CERTIFY, That County of Sierra, Downieville, California

as of July 15, 1943 (the date of inspection)

has made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of East Fork of North Fork of North Yuba River in Sierra County

tributary of Yuba River

for the purpose of **municipal uses**

under Permit **5663** of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **February 16, 1940;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **one and eleven hundredths (1.11) cubic feet per second** from January 1 to December 31 of each season.

This license is based on the use of water made during the year 1941 which was the year of maximum use within the three year period preceding the date of inspection; namely, July 15, 1943.

The point of diversion of such water is located North ten degrees, twelve minutes East (N. 10° 12' E.) twenty two hundred fifty eight and eight tenths (2258.8) feet from the S $\frac{1}{2}$  corner of Section 26, T 20 N, R 10 E, M.D.B. & M., being within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 26.

A description of the lands or the place where such water is put to beneficial use is as follows:

Municipal use within the unincorporated town of Downieville, California within E $\frac{1}{2}$  of SW $\frac{1}{4}$  of Section 26 and NW $\frac{1}{4}$  of Section 35, T 20 N, R 10 E, M.D.B. & M.

The Water Commission Act was superseded by the Water Code on August 4, 1943. By force of the provisions of the latter, all references in this form to the Division of Water Resources will be understood to mean the Department of Public Works acting by and through the State Engineer.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Division of Water Resources in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Division of Water Resources.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

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This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

FORM 64-A

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Witness my hand and the seal of the Department of Public Works of the State of California, this 21st day of April, 1954

EDWARD HYATT  
State Engineer

By Harold Conkling

11/3/52 RECEIVED NOTICE OF ASSIGNMENT TO Downsville Public Utility District

LICENSE 2690

STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE  
TO APPROPRIATE WATER

ISSUED TO County of Sierra

DATED April 21, 1954

10689 3-42 1800 STATE PRINTING OFFICE

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